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Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions

I. Introduction

1. On the recommendation of the Commission on Crime Prevention and Criminal Justice and the Economic and Social Council (Council resolution 1998/14 of 28 July 1998), the General Assembly adopted resolution 53/111 of 9 December 1998, in which it decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea. In its resolution 53/114 of 9 December 1998, the Assembly called upon the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime to devote attention to the drafting of the main text of the convention, as well as of the above-mentioned international instruments.

2. In its resolution 54/126 of 17 December 1999, entitled "Draft United Nations Convention against Transnational Organized Crime and the draft protocols thereto", the General Assembly requested the Ad Hoc Committee to continue its work, in accordance with resolutions 53/111 and 53/114, and to intensify its work in order to complete it in 2000; decided that the Ad Hoc Committee should be convened in 2000 as required, holding no fewer than four sessions of two weeks each; requested the Ad Hoc Committee to schedule sufficient time, subject to the availability of funds from the regular budget or extrabudgetary resources, for the negotiation of the draft protocols addressing trafficking in persons, especially women and children, the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transportation of migrants, including by sea, in order to enhance the possibility of their completion at the same time as the draft Convention; and decided that the Ad Hoc Committee should submit the final

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text of the Convention and protocols thereto to the Assembly for early adoption prior to a high-level signing conference.

3. In its resolution 54/127 of 17 December 1999, the General Assembly requested the Secretary-General, within existing or extrabudgetary resources, to convene an expert group of no more than 20 members, with equitable geographical representation, to prepare a study on the illicit manufacturing of and trafficking in explosives by criminals and their use for criminal purposes; and directed the Ad Hoc Committee, following the completion of the study, to consider the possible elaboration of an international instrument on the illicit manufacturing of and trafficking in explosives.

4. In its resolution 54/128 of 17 December 1999, the General Assembly directed the Ad Hoc Committee to incorporate into the draft Convention measures against corruption linked to organized crime, including provisions regarding the sanctioning of acts of corruption involving public officials; and requested the Ad Hoc Committee, using such time as its schedule permitted and with extrabudgetary resources provided for that purpose, to explore the desirability of an international instrument against corruption, either ancillary to or independent of the Convention, to be developed after the finalization of the Convention and the three additional instruments referred to in resolution 53/111 and to present its views to the Commission on Crime Prevention and Criminal Justice.

5. In its resolution 54/129 of 17 December 1999, the General Assembly accepted with appreciation the offer of the Government of Italy to host a high-level political signing conference in Palermo for the purpose of signing the United Nations Convention against Transnational Organized Crime (Palermo Convention) and protocols thereto; and requested the Secretary-General to schedule the Conference for a period of up to one week before the end of the Millennium Assembly in 2000.

6. The Ad Hoc Committee held eleven sessions, as follows: first session from 19 to 29 January 1999; second session from 8 to 12 March 1999; third session from 28 April to 3 May 1999, in parallel with the eighth session of the Commission on Crime Prevention and Criminal Justice; fourth session from 28 June to 9 July 1999; fifth session from 4 to 15 October 1999; sixth session from 6 to 17 December 1999; seventh session from 17 to 28 January 2000; eighth session from 21 February to 3 March 2000; ninth session from 5 to 16 June 2000; tenth session from 17 to 28 July 2000; and eleventh session from 2 to 28 October 2000.

7. The present report is submitted to the General Assembly at its fifty-fifth session pursuant to resolution 54/126 to apprise the Assembly of the work of the Ad Hoc Committee in implementing its mandate and to submit its recommendations to the Assembly for consideration and action.

II. Background

8. In its resolution 49/159 of 23 December 1994, the General Assembly approved the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, sect. I) and urged States to implement them as a matter of urgency. In the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, the World Ministerial Conference on

Organized Transnational Crime requested the Commission on Crime Prevention and Criminal Justice to initiate the process of requesting the views of Governments on the impact of a convention or conventions against organized transnational crime and on the issues that could be covered therein.

9. The Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, held in Buenos Aires from 27 to 30 November 1995, adopted the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime (E/CN.15/1996/2/Add.1). The States of the Latin American and Caribbean region expressed the interest of their Governments in the further study of the advantages of an international convention against organized transnational crime during the fifth session of the Commission, and proposed elements for inclusion in the convention.

10. In resolution 51/120 of 12 December 1996, the General Assembly took note of the proposed draft United Nations framework convention against organized crime, introduced by Poland at the fifty-first session of the General Assembly (A/C.3/51/7, annex). The Assembly requested the Commission to consider, as a matter of priority, the question of the elaboration of an international convention against organized transnational crime, taking into account the views of all States on this matter, with a view to finalizing its work on the question as soon as possible.

11. The African Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held in Dakar from 21 to 23 July 1997, adopted the Dakar Declaration on the Prevention and Control of Organized Transnational Crime and Corruption (E/CN.15/1998/6/Add.1). The States of the African region expressed their strong support for the elaboration of an international convention against organized transnational crime and made specific suggestions to that end. They called upon all States to contribute to and be actively engaged in the elaboration of such an instrument, making every possible effort to resolve differences and overcome conceptual or substantive difficulties, in order to permit the process to be completed in the shortest time possible.

12. In its resolution 52/85 of 12 December 1997, the General Assembly took note of the report of the informal meeting on the question of the elaboration of an international convention against organized transnational crime, held in Palermo, Italy, from 6 to 8 April 1997 (E/CN.15/1997/7/Add.2), organized and hosted by the Fondazione Giovanni e Francesca Falcone. The Assembly decided to establish an inter-sessional open-ended intergovernmental group of experts for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime, which would submit a report thereon to the Commission at its seventh session.

13. The intergovernmental group of experts held its meeting in Warsaw, from 2 to 6 February 1998, and submitted a report to the Commission at its seventh session, containing an outline of options for the contents of the international convention against organized transnational crime (E/CN.15/1998/5).

14. The Asian Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held in Manila from 23 to 25 March 1998, adopted the Manila Declaration on the Prevention and Control of Transnational Crime (E/CN.15/1998/6/Add.2). The States of the region of Asia and the Pacific welcomed the results achieved by the inter-sessional open-ended intergovernmental group of

experts. They believed that the outline of options for the contents of the convention served as a solid basis for its further development. They strongly supported such an endeavour and confirmed their commitment to play an active role in the efforts to resolve differences and overcome conceptual or substantive difficulties so that the process could speedily move towards its conclusion. They urged the Commission to take advantage of the existing momentum and the consensus achieved on the desirability of such a convention, with a view to speeding up the process of its drafting and finalizing such a project as soon as possible.

15. At its seventh session, the Commission established an in-sessional working group on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, which discussed the draft convention against organized transnational crime. The working group agreed that the development of the convention must proceed at a vigorous pace, with a view to completing the negotiation process, if possible, by the year 2000. The working group carried out a thorough discussion of the options compiled in the report of the meeting of the inter-sessional intergovernmental group of experts. In particular, it discussed the chapters on the scope of application of the convention; participation in an organized crime group; money-laundering; corporate criminal liability; sanctions; confiscation; transparency of transactions; jurisdiction; extradition; the obligation to extradite or prosecute (*aut dedere aut judicare*); extradition of nationals; and consideration of requests for extradition.

16. The informal group of the "Friends of the Chair", which was established pursuant to the recommendation of the Commission at its seventh session to assist the Chairman of the Ad Hoc Committee, held its first meeting in Rome from 17 to 18 July 1998. At that meeting, the informal group reviewed and endorsed the provisional agenda of the informal preparatory meeting of the Ad Hoc Committee, which the Government of Argentina had generously offered to host in Buenos Aires in order to enable the continuation without interruption of the work on the development of the convention. The informal group also reviewed a provisional timetable for its work and the work of the Ad Hoc Committee, submitted by the Secretariat.

17. The informal preparatory meeting of the Ad Hoc Committee was held in Buenos Aires from 31 August to 4 September 1998. By completing the first reading of the outline of options for the contents of the convention and discussing several outstanding issues regarding articles 1 to 13, the meeting produced a new consolidated draft text of the convention, which would provide the basis for the work of the Ad Hoc Committee at its first meeting. The informal preparatory meeting was assisted by contributions submitted by Governments prior to and during the meeting.

18. The second meeting of the informal group of the Friends of the Chair was held in Buenos Aires during the above-mentioned informal preparatory meeting of the Ad Hoc Committee. The informal group approved the timetable of its meetings and those of the Ad Hoc Committee until the envisaged completion of the mandated functions of the Ad Hoc Committee in the year 2000.

19. The third meeting of the Friends of the Chair was held in Vienna on 5 and 6 November 1998. It reviewed and endorsed the provisional agenda and organization of work of the first session of the Ad Hoc Committee.

III. Proceedings of the Ad Hoc Committee

A. First session

20. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime held its first session in Vienna from 19 to 29 January 1999, during which it held 18 meetings.

21. In its resolution 53/111, the General Assembly had decided to accept the recommendation of the Commission on Crime Prevention and Criminal Justice to elect Luigi Lauriola (Italy) as the Chairman of the Ad Hoc Committee. Mr. Lauriola indicated that he was acting in his personal capacity and not as a representative of his country or of any regional group. Following informal consultations, the Ad Hoc Committee elected the following additional officers:

Vice-Chairmen: Kiyotaka Akasaka (Japan)*
Nabil Ammar (Tunisia)**
Demetrio Boersner (Venezuela)***
Zuzana Chudá (Slovakia)
Eric Danon (France)****
Roberta Lajous (Mexico)*****
Patricio Palacios (Ecuador)
Janusz Rydzkowski (Poland)
Shaukat Umer (Pakistan)

Rapporteur: Peter Gastrow (South Africa)

* Replaced subsequently by Kiyoshi Koinuma (Japan).

** Replaced subsequently by Emna Lazougli (Tunisia).

*** For the work of the Ad Hoc Committee in 1999.

**** Replaced subsequently by Bérengère Quincy (France).

***** For the work of the Ad Hoc Committee in 2000; replaced subsequently by Olga Pellicer Silva (Mexico).

22. The Executive Director of the Office for Drug Control and Crime Prevention of the Secretariat made a statement in which he expressed his conviction that the convention, as the first international instrument to be negotiated on action against transnational organized crime, would be a milestone in international efforts to curb the phenomenon.

23. The first session of the Ad Hoc Committee was attended by representatives of 91 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

24. The Ad Hoc Committee was of the view that the election of an expanded bureau would reduce the need for sessions of the informal working group established to assist the Chairman of the Ad Hoc Committee (the informal group of the Friends of the Chair), which had functioned during the preparatory phase. It recommended that, subject to the availability of resources, the sessions of the informal group of the Friends of the Chair that had been foreseen should be converted into sessions of the Ad Hoc Committee, with interpretation in the six official languages of the United Nations.

25. The Ad Hoc Committee based its work on a document containing the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4) and on proposals and contributions submitted by Governments (A/AC.254/5 and Add.2). The Chairman noted that the text contained in document A/AC.254/4 had been the result of discussions and consultations held during the following: the meeting of the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime, held in Warsaw from 2 to 6 February 1998; the seventh session of the Commission on Crime Prevention and Criminal Justice, held in Vienna from 21 to 30 April 1998; and the informal preparatory meeting of the Ad Hoc Committee, held in Buenos Aires from 31 August to 4 September 1998. The draft contained a number of options. On the recommendation of its Chairman, the Ad Hoc Committee decided to focus at its first session on eliminating options, in order to produce a consolidated text that would be the basis for the drafting and negotiation work that it would undertake at its subsequent sessions.

26. The Ad Hoc Committee discussed the draft protocol against illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and the draft protocol against illegal trafficking in and transporting of migrants.

27. The representative of the United States of America introduced the draft protocol to combat international trafficking in women and children, supplementary to the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.3). The representative of Argentina introduced draft elements for an agreement on the prevention, suppression and punishment of international trafficking in women and children, supplementary to the Convention against Transnational Organized Crime (A/AC.254/8). The observers for two non-governmental organizations made statements. The delegations of Argentina and the United States undertook to produce a combined text to serve as the basis for future consideration of the draft instrument by the Ad Hoc Committee.

28. Prior to its consideration of the additional international legal instruments, the Ad Hoc Committee discussed the relationship between those instruments and the convention against transnational organized crime. Pursuant to General Assembly resolutions 53/111 and 53/114, the convention was to be a self-sufficient and free-standing instrument. The highest priority would be given to the signature, ratification and entry into force of the convention and every effort should be made to negotiate a text that would be conducive to meeting that priority. The additional international legal instruments were viewed in principle as optional protocols to the convention, covering areas that required specificity, which the convention could not meet. There was a need to ensure that the optional protocols would be consistent

with the convention, not only to ensure compatibility, but also to maximize the relevance and applicability of general provisions, such as those pertaining to international cooperation, which would be covered under the convention. However, it was pointed out that each instrument was intended to meet specific concerns. Consequently, the instruments might require a broad scope. In that case, also in line with the relevant resolutions of the Economic and Social Council and the General Assembly, the possibility that the additional international legal instruments might be independent from the convention could not be excluded. There was a discussion on whether signature of or accession to the protocols would be possible without prior signature of or accession to the convention, the general preference being towards requiring prior signature of or accession to the convention. The Ad Hoc Committee deemed that it was more appropriate to discuss that issue, together with the question of reservations, when considering the relevant articles of the draft convention.

B. Second session

29. The Ad Hoc Committee held its second session in Vienna from 8 to 12 March 1999, during which it held 10 meetings.

30. The second session of the Ad Hoc Committee was attended by representatives of 95 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

31. The Ad Hoc Committee discussed articles 1, 2, 2 *bis*, 3 and 24-30 of the draft Convention. The Ad Hoc Committee based its work on a document containing a revised draft text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.1) and on proposals and contributions submitted by Governments. The Chairman noted that the revised text contained in document A/AC.254/4/Rev.1 had been the result of discussions and consultations held during the first session.

32. The representative of Argentina introduced amendments to the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, supplementary to the United Nations Convention against Transnational Organized Crime.

33. The Ad Hoc Committee based its discussion on a document containing a revised text of the draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.3/Rev.1). That text was a proposal submitted by Argentina and the United States pursuant to the commitment those States had made at the first session of the Ad Hoc Committee. The Ad Hoc Committee carried out a first reading of articles 1 and 2 of the draft Protocol.

34. During the first reading of the draft Protocol, there was discussion on whether the Protocol would address trafficking in women and children or trafficking in persons. The Secretariat was requested to clarify the question of whether, by considering trafficking in persons, the Ad Hoc Committee would be departing from

the mandate given to it by the General Assembly and, if that were the case, whether it would be competent to do so. The Secretariat undertook to explore the matter and to inform the Ad Hoc Committee of its findings.

C. Third session

35. The Ad Hoc Committee held its third session in Vienna from 28 April to 3 May 1999, during which it held eight meetings.

36. After the opening of the third session of the Ad Hoc Committee by its Chairman, the Secretary called the attention of the Ad Hoc Committee to outstanding matters. In connection with the additional instrument on trafficking in women and children, the Secretary recalled that at its second session the Ad Hoc Committee had made a request that the Secretariat clarify whether, by considering trafficking in persons, the Ad Hoc Committee would be departing from the mandate given to it by the General Assembly and, if that were the case, whether it would be competent to do so. The Secretariat had consulted the Senior Legal Liaison Officer of the United Nations Office at Vienna and brought to the attention of the Ad Hoc Committee his response. According to the Senior Legal Liaison Officer, in its resolutions 53/111 and 53/114, the General Assembly had clearly defined the subjects for which new instruments were required. If the Assembly had wanted any other subjects to be included, it would have said so. Moreover, the recommendations of the Economic and Social Council (e.g. Council resolutions 1998/14 and 1998/20), which formed the basis for the Assembly resolutions, referred to trafficking in women and children and not to trafficking in persons. Those resolutions had been adopted unanimously and the terms used therein reflected the desires of the Assembly. If, however, the Ad Hoc Committee, after considering the issues before it, had come to the conclusion that, instead of developing an instrument addressing trafficking in women and children, it would be in the general interest to develop an instrument dealing with trafficking in persons, it might wish to request the Assembly to modify its mandate in that connection.

37. The third session of the Ad Hoc Committee was attended by representatives of 111 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

38. The Ad Hoc Committee discussed articles 4, 4 *bis*, 7 and 8. In accordance with the request of its Chairman, the Ad Hoc Committee sought to reach agreement on a single text that would reflect, to the extent possible, the emerging consensus and would form the basis for further drafting. The Ad Hoc Committee based its work on a document containing a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.2) and on proposals and contributions submitted by Governments.

39. The Ad Hoc Committee had carried out a first reading of articles 1-8 of the draft text at its first session. Pursuant to the suggestion of its Chairman, the Ad Hoc Committee completed its first reading of the draft text, beginning with article 9. The Ad Hoc Committee based its work on a document containing a revised text of the

draft international legal instrument against illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (A/AC.254/4/Add.2/Rev.1) and on proposals and contributions submitted by Governments.

D. Fourth session

40. The Ad Hoc Committee held its fourth session in Vienna from 28 June to 9 July 1999, during which it held 20 meetings.

41. The fourth session of the Ad Hoc Committee was attended by representatives of 97 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

42. The Ad Hoc Committee discussed articles 4 *ter*, 5, 6, 9 and 14 (paras. 1-13). In continuing its second reading of the draft Convention and in accordance with the request of its Chairman, the Ad Hoc Committee sought to reach agreement on a single text that would reflect, to the extent possible, the points of convergence and would form the basis for further drafting. The Ad Hoc Committee based its work on a document containing a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.3) and on proposals and contributions submitted by Governments.

43. The Ad Hoc Committee discussed the additional international legal instrument against illegal trafficking in and transporting of migrants, including by sea. It based its work on a document containing a revised text of the draft protocol against the smuggling of migrants by land, air and sea, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.1/Rev.1), and on proposals and contributions submitted by Governments.

44. The Ad Hoc Committee also discussed the additional international legal instrument against trafficking in women and children. It based its work on a document containing a revised text of the draft protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.3/Rev.2), and on proposals and contributions submitted by Governments. The Chairman explained that the title of the draft protocol reflected the relevant recommendation of the Commission on Crime Prevention and Criminal Justice at its eighth session, on which the General Assembly was expected to take action at its fifty-fourth session.

E. Fifth session

45. The Ad Hoc Committee held its fifth session in Vienna from 4 to 15 October 1999, during which it held 20 meetings.

46. The fifth session of the Ad Hoc Committee was attended by representatives of 114 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United

Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

47. The Ad Hoc Committee discussed articles 14 (paras. 14-22), 10, 4, 4 *bis*, 7, 7 *bis*, 7 *ter* and 15-19 of the draft Convention. In continuing its second reading of the draft Convention and in accordance with the request of its Chairman, the Ad Hoc Committee sought to reach agreement on a single text that would reflect, to the extent possible, the points of convergence and would form the basis for further drafting. The Ad Hoc Committee based its work on a document containing a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.4) and on proposals and contributions submitted by Governments.

48. The Ad Hoc Committee discussed the additional international legal instrument on combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. It based its work on a document containing a revised text of the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition and Other Related Materials, supplementary to the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.2/Rev.2), and on proposals and contributions submitted by Governments.

49. At its fourth session, the Ad Hoc Committee had decided that, in future, informal consultation meetings should be organized in order to facilitate the implementation of its mandate. The holding of those meetings would depend on the availability of extrabudgetary resources and would meet the following conditions: (a) the informal consultations would be conducted strictly in accordance with the decisions of the General Assembly; (b) provision would be made for interpretation in all official languages of the United Nations; (c) the documentation and agenda for the informal consultations would be made available well in advance of the meetings and sufficient advance notice of the time and place of the meetings would be provided; (d) the informal consultations would be an open-ended and transparent mechanism to assist the Ad Hoc Committee, which would remain the only decision-making body, by making recommendations; (e) the informal consultations would be held only as parallel in-session meetings and their subjects would not overlap those being considered by the Ad Hoc Committee in plenary; (f) no more than two meetings, including the plenary, would be held at the same time during the sessions of the Ad Hoc Committee; and (g) the informal consultations could be assigned, inter alia, to translate into appropriate language the agreements reached in plenary or any other function determined by the Chairman of the Ad Hoc Committee. At its meeting on 7 September 1999, the Bureau of the Ad Hoc Committee, on the basis of proposals submitted to it by the Secretary, decided that the informal consultations at the fifth session of the Ad Hoc Committee would be devoted to issues related to the texts of the revised draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, and the revised draft Protocol to Prevent Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. At the fifth session of the Ad Hoc Committee, informal consultations were held in parallel with the meetings of the plenary of the Ad Hoc Committee from 4 to 8 October 1999.

F. Sixth session

50. The Ad Hoc Committee held its sixth session in Vienna from 6 to 17 December 1999, during which it held 20 meetings.

51. The sixth session of the Ad Hoc Committee was attended by representatives of 106 States. Also attending the session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

52. The Ad Hoc Committee discussed articles 4 *ter*, 17 *bis* and 20-30 of the draft Convention. The Ad Hoc Committee based its work on a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.5) and on proposals and contributions submitted by Governments.

53. The Ad Hoc Committee also discussed the additional legal instrument against illegal trafficking in and transporting of migrants, with particular emphasis on articles 7-19. It based its work on a document containing a revised text of the draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.1/Rev.3), and on proposals and contributions submitted by Governments.

54. The Ad Hoc Committee further discussed the additional legal instrument against trafficking in persons, especially women and children, with particular emphasis on articles 8-18. The Ad Hoc Committee decided to base its work on a restructured version of the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/5/Add.13), as had been recommended by the informal consultations held during the fifth session of the Ad Hoc Committee, and on other proposals and contributions submitted by Governments.

G. Seventh session

55. The Ad Hoc Committee held its seventh session in Vienna from 17 to 28 January 2000, during which it held 20 meetings.

56. The seventh session of the Ad Hoc Committee was attended by representatives of 109 States. Also attending the session were observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

57. The Ad Hoc Committee discussed articles 1-3, 5 and 6 of the draft Convention. The Ad Hoc Committee based its work on a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.6) and on proposals and contributions submitted by Governments.

58. The Ad Hoc Committee discussed the additional legal instrument against illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. It based its work on a document containing a revised text of the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.2/Rev.3), and on proposals and contributions submitted by Governments. The Ad Hoc Committee was informed of a legal opinion provided by the Office of Legal Affairs of the Secretariat regarding the interpretation of General Assembly resolution 54/127. Following a discussion on the matter, the Ad Hoc Committee at its seventh session decided to remove references to explosives from the draft Protocol.

59. At its fourth session, the Ad Hoc Committee had decided that, in future, informal consultations should be organized in order to facilitate the implementation of its mandate.

60. Pursuant to a decision taken at its sixth session, the Ad Hoc Committee devoted the informal consultations held from 18 to 21 January to the consideration of the additional international legal instrument against trafficking in persons, especially women and children, and common provisions of that instrument and the additional international legal instrument against illegal trafficking in and transporting of migrants. Pursuant to the same decision, the Ad Hoc Committee devoted the informal consultations held from 24 to 27 January to the consideration of articles 4, 4 *bis*, 4 *ter*, 4 *quater*, 7, 7 *bis*, 7 *ter*, 17, 17 *bis*, 18, 18 *bis* and 18 *ter* of the draft Convention, in preparation for the finalization of those articles by the Ad Hoc Committee at its eighth session.

H. Eighth session

61. The Ad Hoc Committee held its eighth session in Vienna from 21 February to 3 March 2000, during which it held 20 meetings.

62. The eighth session of the Ad Hoc Committee was attended by representatives of 112 States. Also attending the session were observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

63. The Ad Hoc Committee discussed articles 2, 2 *bis* (subpara. (a) only), 4, 4 *ter*, 4 *quater*, 7, 7 *bis*, 7 *ter*, 17, 17 *bis*, 18, 18 *bis* and 18 *ter* of the draft Convention. Because of lack of time, article 4 *bis* was not discussed and would, therefore, be deferred to the ninth session of the Ad Hoc Committee. The Ad Hoc Committee based its work on a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.7) and on proposals and contributions submitted by Governments.

64. The Ad Hoc Committee discussed the additional legal instrument against illegal trafficking in and transporting of migrants. It based its work on a document containing a revised text of the draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against

Transnational Organized Crime (A/AC.254/4/Add.1/Rev.4), and on proposals and contributions submitted by Governments.

65. The Ad Hoc Committee devoted the informal consultations held during its eighth session, from 22 to 25 February, to the consideration of the additional international legal instrument against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. The Ad Hoc Committee devoted the informal consultations held from 28 February to 2 March to the consideration of articles 9, 10, 10 *bis*, 14, 14 *bis*, 15 and 16 of the draft Convention, in preparation for the finalization of those articles by the Ad Hoc Committee at its ninth session.

I. Ninth session

66. The Ad Hoc Committee held its ninth session in Vienna from 5 to 16 June 2000, during which it held 18 meetings.

67. The ninth session of the Ad Hoc Committee was attended by representatives of 116 States. Also attending the session were observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

68. The Ad Hoc Committee discussed articles 2, 2 *bis* (subpara. (a) only), 4 *bis*, 9 and paragraphs 1-10 of article 10 of the draft Convention. Because of lack of time, paragraphs 11-15 of article 10 and articles 10 *bis*, 14, 14 *bis*, 15 and 16 of the draft Convention were not discussed and discussion of them was therefore deferred to the tenth session of the Ad Hoc Committee. The Ad Hoc Committee based its work on a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.8) and on proposals and contributions submitted by Governments.

69. The Ad Hoc Committee discussed the additional legal instrument against trafficking in persons, especially women and children. It based its work on a revised text of the draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.3/Rev.6), and on proposals and contributions submitted by Governments.

70. The Ad Hoc Committee devoted the informal consultations held during its ninth session, from 6 to 9 June, to the consideration of articles 19-30 of the draft Convention, in preparation for the finalization of those articles by the Ad Hoc Committee at its tenth session. The Ad Hoc Committee devoted the informal consultations held from 13 to 15 June to the consideration of the additional international legal instrument against the illegal trafficking in and transporting of migrants.

J. Tenth session

71. The Ad Hoc Committee held its tenth session in Vienna from 17 to 28 July 2000, during which it held 23 meetings.

72. At its ninth session, held in Vienna from 5 to 16 June 2000, the Ad Hoc Committee had decided that its tenth session would be devoted to the finalization and approval of the draft United Nations Convention against Transnational Organized Crime for submission to the General Assembly at its fifty-fifth session for adoption in accordance with Assembly resolution 54/126.

73. Also at its ninth session, the Chairman had requested all regional groups to appoint representatives to form a group that would be asked, at the tenth session of the Ad Hoc Committee, to ensure consistency of the text in all official languages of the United Nations.

74. The Secretary recalled that, at the ninth session of the Ad Hoc Committee, the Group of Eastern European States had decided to appoint the representatives of the Russian Federation and Slovakia to the consistency group. He announced the following other appointments to the consistency group: the representatives of Cameroon, Egypt, Morocco, Nigeria and South Africa, appointed by the Group of African States; the representatives of China, India, Japan and Jordan, appointed by the Group of Asian and Pacific States; the representatives of Colombia, Cuba, Guatemala and Mexico, appointed by the Group of Latin American and Caribbean States; and the representatives of France, Italy, Spain and the United States, appointed by the Group of Western European and Other States. The Secretary also informed the Ad Hoc Committee that the consistency group would be assisted in its work by an editor, by translators from the translation section for each official language and by a member of the secretariat of the Ad Hoc Committee.

75. The Chairman informed the Ad Hoc Committee that he had asked the representative of Mexico to act as coordinator of the consistency group.

76. The tenth session of the Ad Hoc Committee was attended by representatives of 121 States. Also attending the session were observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

77. The Ad Hoc Committee considered and finalized all the articles of the draft Convention. It based its work on a revised text of the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.9) and on proposals and contributions submitted by Governments.

78. The consistency group held 14 meetings, on 18 to 27 July, and reviewed all the articles of the draft Convention. Its recommendations were incorporated into the final text of the draft Convention and submitted to the Ad Hoc Committee for consideration.

79. At its 177th meeting, on 28 July, the Ad Hoc Committee approved the draft United Nations Convention against Transnational Organized Crime and decided to submit it to the General Assembly for consideration and action at its fifty-fifth session, in accordance with Assembly resolution 54/126 (see chap. IV below).

80. The Ad Hoc Committee considered a draft resolution submitted by the Chairman, entitled "United Nations Convention against Transnational Organized Crime" (A/AC.254/L.224/Rev.1). The Ad Hoc Committee also had before it proposals for amendments to the draft resolution submitted by Governments, the European Union and the Chairman.

81. At its 177th meeting, on 28 July, the Ad Hoc Committee approved the draft resolution, as orally amended, on the understanding that the text of the draft resolution would be finalized by the Ad Hoc Committee at its eleventh session, in order to take into account the results of that session with respect to the draft protocols, and submitted to the General Assembly for consideration and action at its fifty-fifth session.

82. Also at the 177th meeting, on 28 July, the representative of Turkey stated that his country considered the draft Convention a valuable tool in fighting organized crime, in line with Turkey's consistent determination and support for bilateral and multilateral cooperation in combating that phenomenon. For that reason, Turkey had attributed great importance to the development of the draft Convention and had participated actively in the process from its initial stages. Turkey had been confident until the final phase of the negotiation that the Convention would cover all aspects of transnational organized crime. Turkey's experience had demonstrated that there were evident links between terrorist crimes and organized crime. Those links had been established at the World Ministerial Conference on Organized Transnational Crime, held in Naples, Italy, in 1994. Turkey therefore believed that the reflection of those dangerous links in the text of the Convention would better serve that instrument's purposes. Unfortunately, and despite the efforts of several delegations to draw attention to those links through constructive and concrete proposals, the links had been consciously omitted from the final text of the draft Convention. The result was not satisfactory to Turkey, because the Convention would leave loopholes that criminals might exploit. Nevertheless, Turkey did not intend to block consensus on the approval of the draft Convention. Following careful evaluation, its competent authorities would decide whether Turkey would sign the Convention. Prior to concluding his statement, the representative of Turkey thanked the Chairman and the secretariat for all their tireless efforts to conclude the work of the Ad Hoc Committee.

83. Following the adoption of the report, the representative of Lebanon requested that it reflect the reservations expressed by his country regarding article 7, paragraph 6, on confiscation and seizure, and article 14, paragraph 8, on mutual legal assistance, of the draft Convention.

84. The Chairman of the Ad Hoc Committee expressed his gratitude to all delegations for displaying throughout the negotiation process a spirit of cooperation and mutual understanding and for working together in the constructive manner that had made the achievement of the ambitious task of the Ad Hoc Committee possible. The Chairman thanked the Rapporteur, the Secretary of the Ad Hoc Committee and the staff of the Centre for International Crime Prevention. He also thanked the interpreters and conference officers for their support to the Ad Hoc Committee. The Chairman further expressed the gratitude of the Ad Hoc Committee to all States that had made voluntary contributions throughout the negotiation process to the United Nations Crime Prevention and Criminal Justice Fund, thus facilitating the work of the Ad Hoc Committee and making possible the attendance of a number of representatives of least developed countries.

85. The representative of Italy informed delegations of the preparations for the High-level Political Signing Conference, to be held in Palermo, Italy, from 12 to 15 December 2000, in accordance with General Assembly resolution 54/129.

Pursuant to that resolution, consultations on the draft agenda of the Conference would be organized by the Secretariat in Vienna in September.

86. The representative of Uruguay, speaking on behalf of the Group of 77 and China, expressed satisfaction at the completion of the work of the Ad Hoc Committee on the draft Convention. The good will of all delegations had enabled the achievement of general consensus. He was confident that the Convention would enter into force quickly. The Group of 77 and China wished to reiterate the importance of reinforcing technical and economic cooperation internationally, as a means of giving States the possibility to fulfil all the obligations arising from the Convention. The representative of Uruguay called upon the Committee to focus on the completion of the three additional protocols. The Group of 77 and China, as had been stressed on previous occasions, would strive to that end in order to fulfil the mandate given to the Ad Hoc Committee by the General Assembly. Nevertheless, time constraints should not be allowed to compromise the quality of the texts, which should be transparent and universally accepted. Finally, the representative expressed the Group's appreciation to the Chairman, the other members of the Bureau, the consistency group and the secretariat for the support provided to the work of the Ad Hoc Committee.

87. The representative of Mexico, speaking on behalf of the Group of Latin American and Caribbean States, offered the Group's congratulations to the Ad Hoc Committee on the completion of its work on the draft Convention. The Group had once again demonstrated its political will to arrive at compromise solutions, convinced of the importance of reinforcing international cooperation against transnational organized crime. The approval of the draft Convention by consensus demonstrated that the draft text had taken into account the concerns of all States. The Convention represented the most important development of international criminal law since the adoption of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.[1] The members of the Group hoped that after its adoption by the General Assembly and its signature in Palermo, the Convention would enter into force quickly. The challenge facing the Ad Hoc Committee now was the conclusion of the drafting of the three protocols. The members of the Group were confident that the same spirit of compromise would prevail in achieving that task. The representative of Mexico expressed the gratitude of the members of the Group to the Chairman, the members of the Bureau, the representatives who had chaired more informal meetings, the Centre for International Crime Prevention and conference service staff, as well as to the Secretary of the Ad Hoc Committee.

88. The representative of Pakistan associated himself with the statement of the representative of Uruguay on behalf of the Group of 77 and China and expressed his deepest appreciation to those delegations who had specific concerns but had displayed a remarkable spirit of accommodation, thus making it possible for the Ad Hoc Committee to approve the draft Convention by consensus.

89. The representative of Egypt wished to place on record his country's position on the work of the Ad Hoc Committee at its tenth session and on the draft

[1] *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

Convention. Egypt had participated, with all commitment and responsibility, in all stages of the negotiation process, pursuing the common objective of fighting against a very serious criminal phenomenon affecting, to varying degrees, all countries of the world. Acting on the principle that, in preparing an international convention, the concerns of some were the concerns of all, Egypt had repeatedly called for including in the Convention a clear and express reference to the growing relationship between transnational organized crime and terrorist crimes. That plea was in conformity with various United Nations instruments that had affirmed that fact, including resolution 4 of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Egypt had demonstrated great flexibility regarding the way in which such a reference would be embodied in the Convention and had expected that such flexibility would have been met with a greater degree of understanding, so that the Convention, being of worldwide scope, would reflect the concerns of all States. The representative of Egypt expressed his deep regret at the deliberate omission from the text of the Convention of a serious dimension of transnational organized crime, represented in the link between such crime and terrorism. He was certain that such a lacuna constituted a basic shortcoming in the Convention, which would weaken international cooperation in containing and eliminating the phenomenon of terrorism and might prevent the Convention from becoming an influential element of the international legal system that served the interests of all. Finally, the representative of Egypt thanked all the delegations, who had spared no effort in reaching compromise formulas that had had a great effect in supporting the work of the Committee.

90. The representative of France, speaking on behalf of the States members of the European Union that are Members of the United Nations, expressed her satisfaction at the approval of the draft Convention by consensus. That was a success belonging to all delegations, who had managed to find formulas to reconcile different aspects of legal systems and to ensure that all concerns were adequately and appropriately reflected in the final text. The representative of France expressed her appreciation to the Chairman, members of the Bureau and the secretariat for the support they had provided to the Ad Hoc Committee. She was confident that the Ad Hoc Committee would be able to comply fully with its mandate by finalizing the three additional protocols at its eleventh session, through the continued collective good will of all States.

91. The representative of the Syrian Arab Republic, speaking on behalf of the Group of Arab States, emphasized the participation of all Arab States in the negotiation process. Such participation and interest were underpinned by the conviction of being engaged and actively contributing to achieving a common goal that was in the interest of the international community. The representative also expressed his appreciation to the Chairman, members of the Bureau and the secretariat for their support.

92. The representative of Thailand, speaking on behalf of the States members of the Association of South-East Asian Nations that are Members of the United Nations, expressed his appreciation to the Chairman for his able leadership, which had made possible the conclusion of the work of the Ad Hoc Committee on the Convention. He also extended his gratitude to the representative of Pakistan for his efforts as Vice-Chairman of the Ad Hoc Committee and to the secretariat of the Committee for the support provided to all delegations. Once implemented, the

Convention would enhance existing bilateral or multilateral cooperation and thus bridge the gaps that had to date been exploited by organized criminal groups. The success of the Ad Hoc Committee should motivate all delegations to pursue vigorously the conclusion of the three additional protocols at the eleventh session of the Ad Hoc Committee.

93. The representative of Nigeria, speaking on behalf of the Group of African States, stated that dealing with the global problem of transnational organized crime required structural cooperation, in whose framework those with capacity would render technical assistance and training to those with insufficient expertise and resources. It was the hope of the members of the Group that the provisions of the Convention designed to enhance capacity-building would soon be implemented. This should be without prejudice to existing foreign assistance commitments to the countries concerned.

94. The representative of Indonesia, speaking on behalf of the Group of Asian and Pacific States, thanked the Chairman, the members of the Bureau and the secretariat and called for flexibility, which was necessary in achieving the goal of finalizing the three additional protocols at the eleventh session of the Ad Hoc Committee.

95. The representative of the Islamic Republic of Iran joined previous speakers in expressing the profound appreciation of his delegation to the Chairman, the members of the Bureau and the Chairman of the consistency group. The approved text of the Convention might not fully satisfy all delegations. However, in multilateral negotiations on a Convention of such a high magnitude and sensitivity, all delegations were bound to exercise a degree of sacrifice and indulgence to achieve a lofty goal. That goal had been achieved thanks to the collective good will and efforts of all delegations. The representative of the Islamic Republic of Iran concluded by thanking the secretariat for the support extended to all delegations in the past two years and expressing his hope that the same level of support would enable the Ad Hoc Committee to fulfil its task of completing the three additional protocols.

96. The representative of Algeria expressed his satisfaction with the results of the work of the Ad Hoc Committee at its tenth session and the approval of the draft Convention. While sharing the views expressed by Egypt, he called upon all delegations to spare no effort in ensuring the success of the work on the development of a comprehensive convention against terrorism, which was due to begin in New York in September.

97. The representative of South Africa thanked the Chairman and other members of the Bureau for their perseverance and the secretariat for its professionalism. He was convinced that the new Convention would significantly strengthen cooperation against organized criminal groups and looked forward to the successful completion of the three additional protocols at the eleventh session of the Ad Hoc Committee.

K. Eleventh session

98. The Ad Hoc Committee held its eleventh session in Vienna from 2 to 28 October 2000, during which it held 52 meetings.

99. The Secretary recalled that the composition of the consistency group was the following: the representatives of Cameroon, Egypt, Morocco, Nigeria and South Africa, appointed by the Group of African States; the representatives of China, India, Japan and Jordan, appointed by the Group of Asian and Pacific States; the representatives of the Russian Federation and Slovakia, appointed by the Group of Eastern European States; the representatives of Colombia, Cuba, Guatemala and Mexico, appointed by the Group of Latin American and Caribbean States; and the representatives of France, Italy, Spain and the United States, appointed by the Group of Western European and Other States. The Secretary also informed the Ad Hoc Committee that the consistency group would continue to be assisted in its work by an editor, by translators from the translation section for each official language and by a member of the secretariat of the Ad Hoc Committee.

100. The Chairman asked the consistency group to review the concordance among the three draft protocols and the draft United Nations Convention against Transnational Organized Crime, as approved by the Ad Hoc Committee at its tenth session, in addition to ensuring the consistency of the texts of the draft protocols in all the official languages of the United Nations. The Chairman requested the representative of Mexico to continue to act as coordinator of the consistency group.

101. The eleventh session of the Ad Hoc Committee was attended by representatives of 121 States. Also attending the session were observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

102. The Ad Hoc Committee considered and finalized all the articles of the draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It based its work on a revised text of the draft Protocol (A/AC.254/4/Add.3/Rev.7) and on proposals and contributions submitted by Governments.

103. The representative of the Islamic Republic of Iran requested that the report of the Ad Hoc Committee on its eleventh session indicate that his country had joined the consensus on article 3, subparagraph (a), of the draft Protocol, but had registered a reservation regarding the inclusion of the expression "exploitation of the prostitution of others". That reservation was due to inconsistency with domestic law.

104. The representative of the United Arab Emirates requested that the report of the Ad Hoc Committee on its eleventh session reflect its position on article 7, paragraph 1, of the draft Protocol, namely, that it considered itself not bound to provide the right of residence referred to at the end of that article.

105. The representative of the United Kingdom of Great Britain and Northern Ireland stated that his country had joined the consensus on article 3, sub-paragraph (b), but that it reserved its right to make an interpretative statement at the time of signing the Protocol.

106. The representative of Japan requested that the report of the Ad Hoc Committee on its eleventh session reflect his view that the *travaux préparatoires* on article 1 of the draft Protocol should indicate that there were some provisions of the Convention that would not be applicable to the Protocol. Examples of such provisions, at a minimum, were article 3 of the Convention, since article 4 of the Protocol provided otherwise; article 5 of the Convention, since article 5, paragraph 2, of the Protocol provided otherwise; articles 8 and 9 of the Convention, since it was absolutely unnecessary to have these articles apply to the Protocol; and articles 35-41 of the Convention, since articles 15-20 of the Protocol provided otherwise.

107. At its 218th meeting, on 23 October, the Ad Hoc Committee approved the draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and decided to submit it to the General Assembly for consideration and action at its fifty-fifth session, in accordance with resolution 54/126.

108. The Ad Hoc Committee considered and finalized all the articles of the draft Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. It based its work on a revised text of the draft Protocol (A/AC.254/4/Add.1/Rev.6) and on proposals and contributions submitted by Governments.

109. The representative of Azerbaijan requested that the report of the Ad Hoc Committee on its eleventh session indicate that his country reserved its right to make an interpretative statement or reservation regarding article 5 of the Protocol.

110. The representative of Pakistan requested that the report of the Ad Hoc Committee on its eleventh session reflect that her country had joined the consensus on article 6, paragraph 1, of the Protocol, but understood that the offences established in accordance with that paragraph implied the involvement of an organized criminal group.

111. The representatives of Denmark and Norway indicated that their countries would make an interpretative statement at the time of signing the Protocol regarding article 6, paragraph 4, of the Protocol, in connection with a technical matter related to their penal systems.

112. The representative of Turkey requested that the report of the Ad Hoc Committee on its eleventh session reflect his country's understanding that the references to the United Nations Convention on the Law of the Sea[2] in the interpretative notes to article 7 of the Protocol for the *travaux préparatoires* neither prejudiced nor affected the position of Turkey concerning that Convention.

113. The representative of Denmark requested that the report of the Ad Hoc Committee on its eleventh session reflect the position of his country in relation to article 8, paragraph 2, of the Protocol. According to Danish constitutional law, a State Party wishing to take appropriate measures in accordance with that paragraph with regard to vessels of Danish nationality or registry would have to request

[2] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

authorization from Denmark and could not act of its own accord. Denmark indicated that it would examine such requests on a case-by-case basis.

114. The representative of Canada indicated that his country, according to current practice, did not authorize other States to board vessels of Canadian nationality or registry. However, upon request under the Protocol, Canada undertook not to object to such action, provided that the action taken was consistent with the Protocol.

115. The representative of Spain requested that the report of the Ad Hoc Committee on its eleventh session reflect his country's understanding concerning article 8, paragraph 6, namely, that the authorities mentioned therein were central authorities.

116. The representative of Bangladesh requested that the report of the Ad Hoc Committee on its eleventh session reflect his country's position on article 16, paragraph 5. In the view of the representative, that paragraph was overly restrictive. The obligation to inform smuggled migrants about rights of consular access should have been expanded to create a further right to be informed of other rights set forth in this article. The representative also expressed concern that, by referring to the Vienna Convention on Consular Relations,[3] the paragraph would not apply to States Parties to the Protocol that had not ratified or acceded to that Convention.

117. The representative of Japan requested that the report of the Ad Hoc Committee on its eleventh session reflect his view that the *travaux préparatoires* on article 1 of the Protocol should indicate that there were some provisions of the Convention that would not be applicable to the Protocol. Examples of such provisions, at a minimum, were article 3 of the Convention, since article 4 of the Protocol provided otherwise; article 5 of the Convention, since article 6, paragraph 2 of the Protocol provided otherwise; articles 8 and 9 of the Convention, since it was absolutely unnecessary to have these articles apply to the Protocol; and articles 35-41 of the Convention, since articles 20-25 of the Protocol provided otherwise. The representative of Japan also requested that the report of the Ad Hoc Committee on its eleventh session reflect his view that the *travaux préparatoires* should indicate that, in the application of paragraph 3 of article 15 of the Convention, States Parties should not be obliged to establish their jurisdiction under that provision over the offences established in accordance with article 6 of the Protocol.

118. At its 222nd meeting, on 24 October, the Ad Hoc Committee approved the draft Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and decided to submit it to the General Assembly for consideration and action at its fifty-fifth session, in accordance with resolution 54/126.

119. The Ad Hoc Committee considered all the articles of the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. It based its work on a revised text of the draft Protocol (A/AC.254/4/Add.2/Rev.5) and on proposals and contributions submitted by Governments and by the European Commission.

120. In an effort to achieve consensus that would permit the finalization and approval of the draft Protocol, the Ad Hoc Committee extended its eleventh session

[3] United Nations, *Treaty Series*, vol. 596, Nos. 8638-8640.

by holding an additional meeting on 28 October. In spite of the fact that the Ad Hoc Committee came very close to achieving the necessary consensus, it was unable to complete its work in relation to the draft Protocol. Consequently, the Ad Hoc Committee decided to include in the draft resolution it was submitting to the General Assembly at its fifty-fifth session for consideration and action two paragraphs, in which the Assembly would note that the Ad Hoc Committee had not completed its work on the draft Protocol and would request it to finalize such work as soon as possible. In that connection, many delegations emphasized the importance of the finalization of the draft Protocol prior to the Conference on Small Arms and Light Weapons, scheduled for 2001. The Ad Hoc Committee proposed the inclusion of the phrase "as soon as possible" on the understanding that every effort should be made to finalize the draft Protocol by early 2001, but deemed it appropriate to leave to the Assembly the decision of whether to include a more specific deadline.

IV. Matters calling for action by the General Assembly at its fifty-fifth session

121. The Ad Hoc Committee recommends to the General Assembly the adoption of the following draft resolution and the United Nations Convention against Transnational Organized Crime and the protocols thereto:

Draft resolution

United Nations Convention against Transnational Organized Crime

The General Assembly,

Recalling its resolution 53/111 of 9 December 1998, in which it decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea,

Recalling also its resolution 54/126 of 17 December 1999, in which it requested the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime to continue its work, in accordance with resolutions 53/111 and 53/114 of 9 December 1998, and to intensify that work in order to complete it in 2000,

Recalling further its resolution 54/129 of 17 December 1999, in which it accepted with appreciation the offer of the Government of Italy to host a high-level political signing conference in Palermo for the purpose of signing the United Nations Convention against Transnational Organized Crime (Palermo Convention) and the protocols thereto, and requested the Secretary-General to schedule the

conference for a period of up to one week before the end of the Millennium Assembly in 2000,

Expressing its appreciation to the Government of Poland for submitting to it at its fifty-first session a first draft of the United Nations Convention against Transnational Organized Crime and for hosting the meeting of the open-ended intergovernmental group of experts established pursuant to resolution 52/85 of 12 December 1997, held in Warsaw from 2 to 6 February 1998,

Expressing its appreciation to the Government of Argentina for hosting the informal preparatory meeting of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, held in Buenos Aires from 31 August to 4 September 1998,

Expressing its appreciation to the Government of Thailand for hosting the Asia-Pacific Ministerial Seminar on Building Capacities for Fighting Transnational Organized Crime, held in Bangkok on 20 and 21 March 2000,

Deeply concerned by the negative economic and social implications related to organized criminal activities, and convinced of the urgent need to strengthen cooperation to prevent and combat such activities more effectively at the national, regional and international levels,

Noting with deep concern the growing links between transnational organized crime and terrorist crimes, taking into account the Charter of the United Nations and the relevant resolutions of the General Assembly,

Determined to deny safe havens to those who engage in transnational organized crime by prosecuting their crimes wherever they occur and by cooperating at the international level,

Strongly convinced that the United Nations Convention against Transnational Organized Crime will constitute an effective tool and the necessary legal framework for international cooperation in combating, inter alia, such criminal activities as money-laundering, corruption, illicit trafficking in endangered species of wild flora and fauna, offences against cultural heritage and the growing links between transnational organized crime and terrorist crimes,

1. *Takes note* of the report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, which carried out its work at the headquarters of the Office for Drug Control and Crime Prevention of the Secretariat in Vienna, and commends the Ad Hoc Committee for its work;

2. *Adopts* the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime annexed to the present resolution, and opens them for signature at the high-level political signing conference to be held in Palermo, Italy, from 12 to 15 December 2000 in accordance with resolution 54/129;

3. *Requests* the Secretary-General to prepare summary records of the high-level political signing conference to be held in Palermo in accordance with resolution 54/129;

4. *Notes* that the Ad Hoc Committee has not yet completed its work on the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

5. *Requests* the Ad Hoc Committee to continue its work in relation to this Protocol, in accordance with resolutions 53/111, 53/114 and 54/126, and to finalize such work as soon as possible;

6. *Calls upon* all States to recognize the links between transnational organized criminal activities and acts of terrorism, taking into account the relevant General Assembly resolutions, and to apply the United Nations Convention against Transnational Organized Crime in combating all forms of criminal activity, as provided therein;

7. *Recommends* that the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996, which is beginning its deliberations with a view to developing a comprehensive convention on international terrorism, pursuant to Assembly resolution 54/110 of 9 December 1999, should take into consideration the provisions of the United Nations Convention against Transnational Organized Crime;

8. Urges all States and regional economic organizations to sign and ratify the United Nations Convention against Transnational Organized Crime and the protocols thereto as soon as possible in order to ensure the speedy entry into force of the Convention and the protocols thereto;

9. *Decides* that, until the Conference of the Parties to the Convention established pursuant to the United Nations Convention against Transnational Organized Crime decides otherwise, the account referred to in article 30 of the Convention will be operated within the United Nations Crime Prevention and Criminal Justice Fund, and encourages Member States to begin making adequate voluntary contributions to the above-mentioned account for the provision to developing countries and countries with economies in transition of the technical assistance that they might require for implementation of the Convention and the protocols thereto, including for the preparatory measures needed for that implementation;

10. *Decides also* that the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime will complete its tasks arising from the elaboration of the United Nations Convention against Transnational Organized Crime by holding a meeting well before the convening of the first session of the Conference of the Parties to the Convention, in order to prepare the draft text of the rules of procedure for the Conference of the Parties and other rules and mechanisms described in article 32 of the Convention, which will be communicated to the Conference of the Parties at its first session for consideration and action;

11. *Requests* the Secretary-General to designate the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention to serve as the secretariat for and under the direction of the Conference of the Parties to the Convention;

12. *Also requests* the Secretary-General to provide the Centre for International Crime Prevention with the resources necessary to enable it to promote

in an effective manner the expeditious entry into force of the United Nations Convention against Transnational Organized Crime and to discharge the functions of secretariat of the Conference of the Parties to the Convention and to support the Ad Hoc Committee in its work pursuant to paragraph 10 above.

Annex I

United Nations Convention against Transnational Organized Crime

Article 1
Statement of purpose

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.

Article 2
Use of terms

For the purposes of this Convention:

(a) "Organized criminal group" shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

(b) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(c) "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

(d) "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) "Proceeds of crime" shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) "Predicate offence" shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;

(i) "Controlled delivery" shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;

(j) "Regional economic integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to "States Parties" under this Convention shall apply to such organizations within the limits of their competence.

Article 3
Scope of application

1. This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of:

(a) The offences established in accordance with articles 5, 6, 8 and 23 of this Convention; and

(b) Serious crime as defined in article 2 of this Convention;

where the offence is transnational in nature and involves an organized criminal group.

2. For the purpose of paragraph 1 of this article, an offence is transnational in nature if:

(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State.

Article 4
Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

Article 5

Criminalization of participation in an organized criminal group

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

a. Criminal activities of the organized criminal group;

b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;

(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.

2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this article may be inferred from objective factual circumstances.

3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups. Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

Article 6

Criminalization of the laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;

(c) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

(f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

Article 7
Measures to combat money-laundering

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law,

judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Article 8
Criminalization of corruption

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences conduct referred to in paragraph 1 of this article involving a foreign public official or international civil servant. Likewise, each State Party shall consider establishing as criminal offences other forms of corruption.

3. Each State Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this article.

4. For the purposes of paragraph 1 of this article and article 9 of this Convention, "public official" shall mean a public official or a person who provides a public service as defined in the domestic law and as applied in the criminal law of the State Party in which the person in question performs that function.

Article 9
Measures against corruption

1. In addition to the measures set forth in article 8 of this Convention, each State Party shall, to the extent appropriate and consistent with its legal system, adopt legislative, administrative or other effective measures to promote integrity and to prevent, detect and punish the corruption of public officials.

2. Each State Party shall take measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

Article 10
Liability of legal persons

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Article 11
Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with articles 5, 6, 8 and 23 of this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

3. In the case of offences established in accordance with articles 5, 6, 8 and 23 of this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

4. Each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention when considering the eventuality of early release or parole of persons convicted of such offences.

5. Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

6. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

Article 12
Confiscation and seizure

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Article 13

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 12, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 18 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 18, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the

provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence covered by this Convention.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

Article 14

Disposal of confiscated proceeds of crime or property

1. Proceeds of crime or property confiscated by a State Party pursuant to articles 12 or 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.

3. When acting on the request made by another State Party in accordance with articles 12 and 13 of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 30, paragraph 2 (c), of this Convention and to intergovernmental bodies specializing in the fight against organized crime;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

Article 15
Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party;

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(c) The offence is:

(i) One of those established in accordance with article 5, paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(ii) One of those established in accordance with article 6, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 6, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

3. For the purposes of article 16, paragraph 10, of this Convention, each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that one or more other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 16
Extradition

1. This article shall apply to the offences covered by this Convention or in cases where an offence referred to in article 3, paragraph 1 (a) or (b), involves an

organized criminal group and the person who is the subject of the request for extradition is located in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. If the request for extradition includes several separate serious crimes, some of which are not covered by this article, the requested State Party may apply this article also in respect of the latter offences.

3. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

5. States Parties that make extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If they do not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

10. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its

competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

11. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.

12. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

14. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Article 17
Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences covered by this Convention, in order that they may complete their sentences there.

Article 18
Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures, and freezing;

(d) Examining objects and sites;

(e) Providing information, evidentiary items and expert evaluations;

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall

notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Article 19
Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 20
Special investigative techniques

1. If permitted by the basic principles of its domestic legal system, each State Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities in its territory for the purpose of effectively combating organized crime.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods to continue intact or be removed or replaced in whole or in part.

Article 21
Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Article 22
Establishment of criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence covered by this Convention.

Article 23
Criminalization of obstruction of justice

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public officials.

Article 24
Protection of witnesses

1. Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

Article 25

Assistance to and protection of victims

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.

2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.

3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Article 26

Measures to enhance cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:

(a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

(i) The identity, nature, composition, structure, location or activities of organized criminal groups;

(ii) Links, including international links, with other organized criminal groups;

(iii) Offences that organized criminal groups have committed or may commit;

(b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

4. Protection of such persons shall be as provided for in article 24 of this Convention.

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 27

Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

Article 28
Collection, exchange and analysis of information on the nature of organized crime

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.

3. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

Article 29
Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

(a) Methods used in the prevention, detection and control of the offences covered by this Convention;

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Monitoring of the movement of contraband;

(d) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

(e) Collection of evidence;

(f) Control techniques in free trade zones and free ports;

(g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;

(h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and

(i) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

Article 30

Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of organized crime on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat transnational organized crime;

(b) To enhance financial and material assistance to support the efforts of developing countries to fight transnational organized crime effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to the aforementioned account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of transnational organized crime.

Article 31
Prevention

1. States Parties shall endeavour to develop and evaluate national projects and to establish and promote best practices and policies aimed at the prevention of transnational organized crime.

2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime, through appropriate legislative, administrative or other measures. These measures should focus on:

(a) The strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry;

(b) The promotion of the development of standards and procedures designed to safeguard the integrity of public and relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants;

(c) The prevention of the misuse by organized criminal groups of tender procedures conducted by public authorities and of subsidies and licences granted by public authorities for commercial activity;

(d) The prevention of the misuse of legal persons by organized criminal groups; such measures could include:

(i) The establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons;

(ii) The introduction of the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by this Convention from acting as directors of legal persons incorporated within their jurisdiction;

(iii) The establishment of national records of persons disqualified from acting as directors of legal persons; and

(iv) The exchange of information contained in the records referred to in subparagraphs (d) (i) and (iii) of this paragraph with the competent authorities of other States Parties.

3. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

4. States Parties shall endeavour to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups.

5. States Parties shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime. Information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crime.

6. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in developing measures to prevent transnational organized crime.

7. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of transnational organized crime, for example by alleviating the circumstances that render socially marginalized groups vulnerable to the action of transnational organized crime.

Article 32
Conference of the Parties to the Convention

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 29, 30 and 31 of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it;

(c) Cooperating with relevant international and regional organizations and non-governmental organizations;

(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in

doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

Article 33
Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the Parties to the Convention.

2. The secretariat shall:

(a) Assist the Conference of the Parties in carrying out the activities set forth in article 32 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the Parties as envisaged in article 32, paragraph 5, of this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Article 34
Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. The offences established in accordance with articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1, of this Convention, except to the extent that article 5 of this Convention would require the involvement of an organized criminal group.

3. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating transnational organized crime.

Article 35
Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the

arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 36

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 37

Relation with protocols

1. This Convention may be supplemented by one or more protocols.

2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.

3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.

4. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

Article 38
Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument.

Article 39
Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 40
Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

Article 41
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

Annex II

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1
Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2
Statement of purpose

The purposes of this Protocol are:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3
Use of terms

For the purposes of this Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation

of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Article 4
Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5
Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of

any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of

persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12
Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13
Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14
Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention[4] and the 1967 Protocol[5] relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15
Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

[4] United Nations, *Treaty Series*, vol. 189, No. 2545.
[5] Ibid., vol. 606, No. 8791.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic

integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18
Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19
Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

Annex III

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels,

Recalling General Assembly resolution 54/212 of 22 December 1999, in which the Assembly urged Member States and the United Nations system to strengthen international cooperation in the area of international migration and development in order to address the root causes of migration, especially those related to poverty, and to maximize the benefits of international migration to those concerned, and encouraged, where relevant, interregional, regional and subregional mechanisms to continue to address the question of migration and development,

Convinced of the need to provide migrants with humane treatment and full protection of their rights,

Taking into account the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

Concerned at the significant increase in the activities of organized criminal groups in smuggling of migrants and other related criminal activities set forth in this Protocol, which bring great harm to the States concerned,

Also concerned that the smuggling of migrants can endanger the lives or security of the migrants involved,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc

committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing illegal trafficking in and transporting of migrants, including by sea,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument against the smuggling of migrants by land, sea and air will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1
Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2
Statement of purpose

The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.

Article 3
Use of terms

For the purposes of this Protocol:

(a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;

(b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

(c) "Fraudulent travel or identity document" shall mean any travel or identity document:

(i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or

(ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or

(iii) That is being used by a person other than the rightful holder;

(d) "Vessel" shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Article 4
Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offences.

Article 5
Criminal liability of migrants

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

Article 6
Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

(a) The smuggling of migrants;

(b) When committed for the purpose of enabling the smuggling of migrants:

(i) Producing a fraudulent travel or identity document;

(ii) Procuring, providing or possessing such a document;

(c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of

its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:

(a) That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or

(b) That entail inhuman or degrading treatment, including for exploitation, of such migrants.

4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

II. Smuggling of migrants by sea

Article 7
Cooperation

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

Article 8
Measures against the smuggling of migrants by sea

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.

2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures with regard to that vessel. The flag State may authorize the requesting State, inter alia:

(a) To board the vessel;

(b) To search the vessel; and

(c) If evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorized by the flag State.

3. A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.

4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorization made in accordance with paragraph 2 of this article.

5. A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

6. Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorization to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

7. A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.

Article 9
Safeguard clauses

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:

(a) Ensure the safety and humane treatment of the persons on board;

(b) Take due account of the need not to endanger the security of the vessel or its cargo;

(c) Take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;

(d) Ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

2. Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.

3. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:

(a) The rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or

(b) The authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

III. Prevention, cooperation and other measures

Article 10
Information

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:

(a) Embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organized criminal group engaged in conduct set forth in article 6 of this Protocol;

(b) The identity and methods of organizations or organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;

(c) The authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;

(d) Means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;

(e) Legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and

(f) Scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.

2. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11
Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12
Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13
Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

Article 14
Training and technical cooperation

1. States Parties shall provide or strengthen specialized training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.

2. States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:

(a) Improving the security and quality of travel documents;

(b) Recognizing and detecting fraudulent travel or identity documents;

(c) Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;

(d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and

(e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

Article 15

Other prevention measures

1. Each State Party shall take measures to ensure that it provides or strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned.

2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups.

3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

Article 16

Protection and assistance measures

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been

the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations,[6] where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Article 17
Agreements and arrangements

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

(a) Establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or

(b) Enhancing the provisions of this Protocol among themselves.

Article 18
Return of smuggled migrants

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.

2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.

3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.

[6] United Nations, *Treaty Series*, vol. 596, Nos. 8638-8640.

4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

6. States Parties may cooperate with relevant international organizations in the implementation of this article.

7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.

8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

IV. Final provisions

Article 19
Saving clause

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention[7] and the 1967 Protocol[8] relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 20
Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States

[7] United Nations, *Treaty Series*, vol. 189, No. 2545.
[8] Ibid., vol. 606, No. 8791.

Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 21

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 22

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 23
Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 24
Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 25
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.